

REMARKS

In response to the final Office action mailed January 26, 2009, the Examiner's claim rejections have been considered. Applicants respectfully traverse all rejections regarding all pending claims and earnestly solicit allowance of these claims.

1. Claim Rejection – 35 U.S.C. § 102(e) - Claims 1-4, 6-12, 14-20, 22-26, 28-34, 36-42 and 44

The Examiner rejected claims 1-4, 6-12, 14-20, 22-26, 28-34, 36-42 and 44 under 35 U.S.C. § 102(b) as being anticipated by Brumfield et al. (U.S. Patent No. 7,228,289) (hereinafter "Brumfield"). Claims 17, 22-23, 28-34, 36-42 and 44 have been canceled making the rejection of these claims moot.

Applicants respectfully traverse this rejection. For the sake of brevity, the rejections of the independent claims 1 and 9 are discussed in detail on the understanding that the dependent claims are also patentably distinct over the prior art, as they depend directly from their respective independent claims. Nevertheless, the dependent claims include additional features that, in combination with those of the independent claims, provide further, separate and independent bases for patentability.

In response to the rejection, Applicants have similarly amended claims 1 and 9. Claim 1 has been amended by incorporating the limitations of dependent claims 2 and 4. Claim 9 has been similarly amended and includes the limitations of dependent claims 10 and 12. Claim 1 now recites in part:

a display configured to display two or more graphical representations of some or all of the transaction data including at least one desired transaction, the size of the graphical representations proportional to the volume of tradable items represented by the transaction data, and the graphical representations positioned relative to the other graphical representations based on the time value in each data set.

(emphasis added).

Unlike the claimed invention, where graphical representations are displayed as on-going, dynamic updating of separate transactions, Brumfield discloses a static histogram where desired transactions are displayed as quantities. The quantities of the desired transactions in Brumfield

are individual transactions that are added together and then displayed. FIG. 4 of Brumfield shows quantities of the number of “bids” for a certain price in column 406, quantities of “asks” for a certain price in column 408, and volume bars 452 in column 412, which indicate the volume traded at various price levels over a set time period. See Brumfield, col. 14, lines 46-47 and 62-63; and col. 15, lines 26-28. Therefore, Brumfield does not disclose “graphical representations positioned relative to the other graphical representations based on the time value in each data set,” as recited in independent claims 1 and 9.

In conclusion, Applicants respectfully submit that the 35 U.S.C. §103(a) rejection of claims 1, 3, 5-9, 11, 13-16, 18-20 and 24-26 have been overcome.

2. Claim Rejections – 35 U.S.C. § 103(a) - Claims 5, 13, 21, 27, 35 and 43

The Examiner rejected claims 5, 13, 21, 27, 35 and 43 under 35 U.S.C. § 103(a) as being unpatentable over Brumfield in view of Burns et al. (U.S. Patent No. 7,243,083) (hereinafter “Burns”). Claims 21, 27, 35 and 43 have been canceled, thereby making the rejection of these claims moot.

Applicants note that claims 5 and 13 are dependent claims that depend from independent claims 1 and 9, respectively. In light of the arguments submitted in Section 1 of this response, Applicants respectfully submit that dependent claims 5 and 13 are not obvious in view of the combination of Brumfield and Burns because these references, alone or in combination, fail to teach or suggest all the claimed limitations. Moreover, these dependent claims further recite and define the claimed invention, and thus, are independently patentable.

In conclusion, Applicants respectfully submit that the 35 U.S.C. §103(a) rejection of claims 5, 13, 21, 27, 35 and 43 have been overcome.

CONCLUSION

Applicants have made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of claims 1, 3, 5-9, 11, 13-16, 18-20 and 24-26 is believed to be in order, and a timely Notice of Allowance to this effect is respectfully requested.

The Commissioner is hereby authorized to charge the fees indicated in the Fee Transmittal, any additional fee(s) or underpayment of fee(s) under 37 CFR 1.16 and 1.17, or to credit any overpayments, to Deposit Account No. 194293, Deposit Account Name STEPTOE & JOHNSON LLP.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at (310) 734-3200. The undersigned attorney can normally be reached Monday through Friday from about 9:00 AM to 6:00 PM Pacific Time.

Respectfully submitted,

Date: May 7, 2009



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